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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MARIA MCCORMACK SOBRINO BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 12400 WILSHIRE BOULEVARD 7TH FLOOR LOS ANGELES, CA 90025			SHELEHEDA, JAMES R	
			ART UNIT	PAPER NUMBER
			2614	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/470,100	MINIKAWA ET AL.	
	Examiner	Art Unit	
	James Sheleheda	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 September 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8,12-15 and 18-23 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-8,12-15 and 18-23 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Objections

1. Claims 3 and 22 are objected to because of the following informalities:

In claims 2 and 3, line 3, "to tunes to a station" should be changed to --to tune to a station--.

In claim 3, line 2, the phrase "antenna source for and" should be changed to -- antenna source and--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5-8, 12-15 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broberg (6,529,680) (of record) in view of Stinebruner (6,133,910) (of record).

As to claim 5, Broberg discloses a system (Fig. 1) for providing a default source to at least one channel number usable by a plurality of sources providing a station to transmit television programs, comprising:

a **processor** (Fig. 1, 34) configured to generate an electronic system guide (on-screen menu, column 5, lines 44-45) identifying the plurality of sources (column 5, lines 41-46 and 61-64); and

a **selector** (switch, 50 controlled by processor, 34) controlled by the processor (switch 50 being controlled by processor, 34; column 5, lines 6-11) to

1) select a first default source (analog) of the plurality of sources in response to **selection** of a non-overlapping channel number (channels 2-99) for television programs provided by the plurality of sources (television programming from the television providers; column 5, lines 34-46) and automatically program the system (through assumed default values; column 5, lines 34-46) to tune to a station for receiving television programs (analog cable channels; column 7, lines 21-28 and lines 29-39) provided by the selected first default source (analog cable; column 5, lines 34-45), and

2) select a second default source (digital satellite) of the plurality of sources in response to **selection** of an overlapping channel number (channels 100-125 overlapping between cable channels 2-125 and satellite channels 100-999; column 5, lines 37-41) for television programs provided by the plurality of sources (television programming from the television providers; column 5, lines 34-46) and automatically program the system (through assumed default values; column 5, lines 34-46) **to** tune to a station for receiving television programs (digital channels; column 7, lines 15-20 and lines 29-39) provided by the second default source (digital satellite; column 5, lines 34-45).

While Broberg assigning overlapping and non-overlapping channels to specific default sources based upon default values (column 5, lines 34-46), he fails to specifically disclose detecting whether a channel number is a non-overlapping channel number or an overlapping channel number.

In an analogous art, Stinebruner discloses an EPG (Fig. 2) utilizing a plurality of sources (column 4, lines 63-67 and column 5, lines 1-19) wherein it will automatically detect and determine if a channel number is overlapping or non-overlapping (if a local program channels use the same channel number as those used by other sources; column 11, lines 50-53) for the typical benefit of providing a means to more accurately automatically find and eliminate channel conflicts when a plurality of sources are incorporated together.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broberg's method to include detecting whether a channel number is a non-overlapping channel number or an overlapping channel number, as taught by Stinebruner, for the typical benefit of providing a more accurate means to automatically program a channel guide by detecting instances of channel conflicts between multiple sources.

As to claim 6, Broberg and Stinebruner disclose wherein the processor is also configured to generate a menu (on screen menu; see Broberg at column 5, lines 40-45 and lines 60-64) listing a satellite source and a cable source for a user to select (see Broberg at column 5, lines 40-45, 60-64) such that the at least one channel number

tunes to a station for receiving television programs (see Broberg at column 7, lines 15-39) provided by the selected one of the satellite source and the cable source (see Broberg at column 5, lines 40-45 and lines 60-64).

As to claim 7, Broberg and Stinebruner disclose wherein the processor is also configured to generate a menu listing (on-screen menu; see Broberg at column 5, lines 44-45 and lines 60-64) a satellite source (digital satellite; column 5, lines 46-51) and local TV antenna source (off-air channels; see Broberg at column 5, lines 49-51) for a user to select (see Broberg at column 5, lines 40-45, 60-64) such that the at least one channel number tunes to a station for receiving television programs (see Broberg at column 7, lines 15-39) provided by the selected one of the satellite source and local TV antenna source (user selecting if channel is off-air or digital; see Broberg at column 5, lines 40-51 and lines 60-64).

As to claim 8, Broberg and Stinebruner disclose wherein the television programs are transmitted using one of an analog and a digital signal (see Broberg at column 5, lines 40-45).

As to claim 12, Broberg discloses a method comprising:
selecting a first default source for overlapping channel numbers (numbers 100-125; column 5, lines 34-46) being channel numbers used by a plurality of sources

(wherein numbers 100-125 are used by both cable and satellite; column 5, lines 34-46), and if there are over-lapping channel numbers;

listing (with on-screen menu, column 5, lines 44-45) the plurality of sources using the over-lapping channel numbers (column 5, lines 44-46 and lines 61-64),

selecting a second default source among the listed plurality of sources to program the over-lapping channel numbers (column 5, lines 44-46 and lines 61-64) and

automatically programming (column 5, lines 30-37) the over-lapping channel numbers to tune to a station for receiving television programs provided by the selected second source (column 8, lines 44-51) and

automatically programming the non-over-lapping channel numbers to tune to a station for receiving television programs provided by the selected first source (column 5, lines 41-51). Broberg fails to specifically disclose, however, determining if channel numbers are over-lapping channel numbers or non-overlapping channel numbers.

In an analogous art, Stinebruner discloses an EPG (Fig. 2) utilizing a plurality of sources (see Broberg at column 4, lines 63-67 and column 5, lines 1-19) wherein it will automatically detect and determine if a channel number is overlapping or non-overlapping (if a local program channels use the same channel number as those used by other sources; see Broberg at column 11, lines 50-53) for the typical benefit of providing a means to more accurately automatically find and eliminate channel conflicts when a plurality of sources are incorporated together.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broberg's method to include determining if channel

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numbers are over-lapping channel numbers or non-overlapping channel numbers, as taught by Stinebruner, for the typical benefit of providing a more accurate means to automatically program a channel guide by detecting instances of channel conflicts between multiple sources.

As to claim 13, Broberg and Stinebruner disclose a method wherein if there are no over-lapping channel numbers, programming the channel numbers to tune to a station for receiving television programs provided by the selected first source (see Broberg at column 5, lines 39-51).

As to claim 14, Broberg and Stinebruner disclose wherein selecting a first source selects one of a cable source and a satellite source (see Broberg at column 5, lines 37-44).

As to claim 15, Broberg and Stinebruner disclose wherein selecting a second source selects one of a cable source and a satellite source (see Broberg at column 5, lines 37-46 and lines 61-64).

As to claim 21, Broberg discloses an article of manufacture (Fig. 1) including one or more computer readable media with executable instructions therein, which, when executed by a processing device causes the processing device to:

select a first default source to program channel numbers (column 5, lines 34-46);

if there are over-lapping channel numbers (channels 100-125 used by cable and satellite; column 5, lines 41-45),

list (with on-screen menu; column 5, lines 44-45) a plurality of **second default sources** (column 5, lines 44-46 and lines 61-64),

select a second default source among the listed plurality of sources to program the over-lapping channel numbers (column 5, lines 44-46 and lines 61-64), and

automatically program (column 5, lines 30-37) the over-lapping channel numbers to tune to a station for receiving television programs provided by the selected second source (column 8, lines 44-51) and **automatically program** any non-overlapping channel numbers to tune to a station for receiving television programs provided by the selected first source (column 5, lines 41-51). Broberg fails to specifically disclose, however, determining if there are over-lapping channel numbers usable by a plurality of sources.

In an analogous art, Stinebruner discloses an EPG (Fig. 2) utilizing a plurality of sources (column 4, lines 63-67 and column 5, lines 1-19) wherein it will automatically detect and determine if a channel number is overlapping or non-overlapping (if a local program channels use the same channel number as those used by other sources; column 11, lines 50-53) for the typical benefit of providing a means to more accurately automatically find and eliminate channel conflicts when a plurality of sources are incorporated together.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broberg's method to include determining if there are over-lapping channel numbers usable by a plurality of sources, as taught by Stinebruner, for the typical benefit of providing a more accurate means to automatically program a channel guide by detecting instances of channel conflicts between multiple sources.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broberg in view of Morrison (6,359,580) (of record) and Stinebruner.

As to claim 1, Broberg discloses a method programming a set-top box, comprising:

generating an electronic system guide (on-screen menu, column 5, lines 44-45) identifying a plurality of sources providing signals to the set-top box (column 5, lines 40-45 and lines 60-64);

selecting a first source (cable) of the plurality of sources as a first source (wherein channels 2-99 are defaulted to cable; column 5, lines 34-45);

selecting a second source (digital satellite) of the plurality of sources as a second default source (wherein channels 100-999 are defaulted to digital satellite; column 5, lines 37-45); and

automatically programming the channel number (cable channels 2-99; column 5, lines 34-45) to tune to a station for receiving television programs (column 7, lines 15-39) provided by the selected first default source (cable default for channels 2-99; column 5,

lines 34-45) in response to the channel number being the non-overlapping channel number (wherein only the cable provider uses these numbers; column 5, lines 34-46) and programming the channel number (channels 100-125 overlapping between cable channels 2-125 and satellite channels 100-999; column 5, lines 37-41) to tune to a station receiving television programs (column 7, lines 15-39) provided by the selected second default source (digital satellite default; column 5, lines 40-46) in response to the channel number being the overlapping channel number (in response to the fact that these numbers are overlapping between both, but more commonly satellite; column 5, lines 34-46).

While Broberg discloses selecting a first and second default source (through programmed defaults; column 5, lines 34-44) and assigning overlapping and non-overlapping channels to specific default sources (column 5, lines 34-46), he fails to specifically disclose selecting the source from an electronic system guide and detecting whether a channel number associated with an incoming signal is a non-overlapping channel number or an overlapping channel number.

In an analogous art, Morrison discloses a cable receiver (Fig. 4) wherein the receiver will automatically detect if a channel has a plurality of available sources (column 2, lines 54-57) and the user is presented with a menu to select a source from the plurality of available sources (Fig. 2; column 3, lines 3-10) and wherein the user chooses a particular source to be the default source (column 3, lines 7-9). This provides the benefit of allowing a user to determine the source defaults for channels.

Additionally, in an analogous art, Stinebruner discloses an EPG (Fig. 2) utilizing a plurality of sources (column 4, lines 63-67 and column 5, lines 1-19) wherein it will automatically detect and determine if a channel number is overlapping or non-overlapping (if a local program channels use the same channel number as those used by other sources; column 11, lines 50-53) for the typical benefit of providing a means to more accurately automatically find and eliminate channel conflicts when a plurality of sources are incorporated together.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broberg's system to include selecting the source from an electronic system guide, as taught by Morrison, for the typical benefit of allowing a user to easily select their personal choices for the sources used with channels.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broberg and Morrison's method to include detecting whether a channel number associated with an incoming signal is a non-overlapping channel number or an overlapping channel number, as taught by Stinebruner, for the typical benefit of providing a more accurate means to automatically program a channel guide by detecting instances of channel conflicts between multiple sources.

As to claim 2, Broberg, Morrison and Stinebruner disclose generating a menu (on-screen menu; see Broberg at column 5, lines 44-45) listing a satellite source and a cable source for a user to select (column 5, lines 40-45 and lines 60-64) the non-

overlapping channel number (for example, channel numbers 2-99) to tune to a station for receiving television programs (column 7, lines 15-39) provided by a selected one of the satellite source and cable source (a user changing the setting for channels 2-99; column 5, lines 40-45 and lines 60-64).

As to claim 3, Broberg, Morrison and Stinebruner disclose generating a menu (on-screen menu; see Broberg at column 5, lines 44-45 and lines 60-64) listing a satellite source (digital satellite; see Broberg at column 5, lines 46-51) and a local TV antenna source (off-air channels, column 5, lines 49-51) for a user to select (column 5, lines 40-45, 60-64) the non-overlapping channel number (for example, channel numbers 2-99) to tune to a station for receiving television programs (column 7, lines 15-39) provided by the selected one of the local TV antenna source and the satellite source (a user changing the setting for channels 2-99; column 5, lines 40-51 and lines 60-64).

As to claim 4, Broberg, Morrison and Stinebruner disclose wherein prior to selecting the second source of the plurality of source (wherein the menu is displayed before the selection from the menu is made; see Morrison at column 3, lines 3-10), the method comprising generating a menu listing sources of the plurality of sources (see Morrison at column 3, lines 3-10; Fig. 2) including the second source (whichever source the user selects), for the user to select as the selected second source (wherein the source selected is used as the second source as in claim 1).

5. Claims 18-20, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broberg in view of Farleigh (6,208,388) and Stinebruner.

As to claim 18, Broberg discloses a system (Fig. 4) for providing a default source to channel numbers, comprising:

a **processor** (Fig. 1, 34) configured to generate an electronic system guide (on-screen menu, column 5, lines 44-45) identifying a plurality of first default sources (column 5, lines 41-46 and 61-64);

automatically programming each over-lapping channel number (channels 100-125) to tune to the second default source (to the satellite provider; column 5, lines 34-46), and automatically programming any non-overlapping channel numbers (channel numbers 2-99) to tune to the first default source (to the cable provider; column 5, lines 34-46),

and listing a plurality of second default sources that may use the over-lapping channel numbers (wherein source settings are listed for any channel; column 5, lines 45-46 and lines 61-64); and

a **selector** (switch, 50 controlled by processor, 34) controlled by the processor (switch 50 being controlled by processor, 34; column 5, lines 6-11) to (1) select the first default source (cable) such that the non-overlapping channel numbers (channels 2-99) tune to a station for receiving television programs provided by the first default source (analog cable; column 7, lines 21-28 and lines 29-39), and

(2) select the second default source (digital satellite) such that the over-lapping channel numbers (channels 100-125 overlapping between cable channels 2-125 and

satellite channels 100-999; column 5, lines 37-41) tune to a station for receiving television programs (digital channels; column 7, lines 15-20 and lines 29-39) provided by the second default source (digital satellite; column 5, lines 34-45).

While Broberg discloses automatically programming channel numbers by default sources, he fails to specifically disclose an EPG with an auto-program option and determining if a channel is an over-lapping channel number or a non-overlapping channel number.

In an analogous art, Farleigh disclose a television system with plural input sources (column 3, lines 26-37) wherein a user will navigate onscreen menus (column 6, lines 60-61) to select an option to automatically program channel numbers to specific sources (Fig. 5a, step 80; column 6, lines 52-67) for the typical benefit of providing the user flexibility in choosing when to implement the programming of television channel numbers (programming upon user selection of the option; column 6, lines 60-67).

Additionally, in an analogous art, Stinebruner discloses an EPG (Fig. 2) utilizing a plurality of sources (column 4, lines 63-67 and column 5, lines 1-19) wherein it will automatically detect and determine if a channel number is overlapping or non-overlapping (if a local program channels use the same channel number as those used by other sources; column 11, lines 50-53) for the typical benefit of providing a means to more accurately automatically find and eliminate channel conflicts when a plurality of sources are incorporated together.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broberg's method to include an EPG with an auto-

program option, as taught by Farleigh, for the typical benefit of providing the user more flexibility and control over how and when television channel numbers are programmed.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Broberg's method to include determining if channel numbers are over-lapping channel numbers or non-overlapping channel numbers, as taught by Stinebruner, for the typical benefit of providing a more accurate means to automatically program a channel guide by detecting instances of channel conflicts between multiple sources.

As to claim 19, Broberg, Farleigh and Stinebruner disclose wherein the first default source is one of a local TV antenna source (off air; see Broberg at column 5, lines 49-51) and a cable source (cable; see Broberg at column 5, lines 49-51).

As to claim 20, Broberg, Farleigh and Stinebruner disclose wherein the second default source is a satellite source (digital satellite; see Broberg at column 5, lines 49-51).

As to claim 22, Broberg, Farleigh and Stinebruner disclose wherein the overlapping channel numbers (channels 100-125) are channel numbers that are used by a first plurality of channel numbers (cable channels 2-125; see Broberg at column 5, lines 34-45) associated with the first default source (wherein these are the numbers usable by cable; see Broberg at column 5, lines 34-45) and a second plurality of channel

numbers (digital satellite channels 100-999; see Broberg at column 5, lines 34-45) associated with the second default source (wherein these are the numbers usable by satellite; see Broberg at column 5, lines 34-45).

As to claim 23, Broberg, Farleigh and Stinebruner disclose wherein the selection of the first default sources (cable) and the second default sources (digital satellite) is automatic (wherein the channel mapping chooses defaults which are most likely to avoid overlaps; see Broberg at column 5, lines 34-45).

Response to Arguments

6. Applicant's arguments filed 09/23/04 have been fully considered but they are not persuasive.

a. On page 7, paragraph 4, lines 6-8, applicant argues that channel selection in the Broberg reference is not automatic, as claimed.

In response, Broberg specifically teaches automatic channel selection in the fact that the channel selections are **defaulted** to specific values based upon the assumption that cable channels rarely go over 99. Since this obviously requires no user interaction, it would read upon the claim limitation of **automatically**.

b. On page 7, paragraph 4, lines 6-8, applicant argues that channel selection in the Broberg reference is based upon the existence of an overlapping channel condition, as claimed.

In response, Broberg specifically teaches wherein overlapping channels (usable by both cable and satellite) are assigned only to satellite and not cable since satellite providers are more likely to use those channels. This clearly reads upon the claim limitation of selecting channels based upon the existence of an overlapping channel condition.

c. Applicant's arguments on page 7, paragraphs 5 and 6, are moot in view of the new rejections above.

d. As to applicant's arguments on page 8, paragraphs 1 and 2, see (a) and (b) above and the new rejections.

e. On page 8, paragraphs 3-5, applicant argues that Broberg and Stinebruner fail to teach determining if channels are overlapping and programming channel numbers in response to that determination.

In response, the Stinebruner reference specifically teaches this feature. Column 11, lines 50-53 (as previously cited by the examiner) states that "The local channels may be automatically incorporated at corresponding virtual channels..., whereby existing channels on other sources would be moved to

other virtual channels." This system is automatically detecting that channels from different sources are sharing the same number, and in this overlapping condition, defaulting the channel numbers to the local channels instead of other existing channels.

Conclusion

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (703) 305-8722. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (703) 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda
Patent Examiner
Art Unit 2614


JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

JS